

Request for Reconsideration:

Applicants now are amending claims 13, 16, 17, and 35. Applicants respectfully submit that these amendments do not add new matter and are fully supported by the specification, as filed. See, e.g., Appl'n, **Figs. 1-2**. Accordingly, claims 13-19, 22, 35, and 36 currently are under consideration in this application. Applicants respectfully request that the Examiner enter these amendments and reconsider the above-captioned patent application in view of the foregoing amendments and the following remarks.

Remarks:

1. Rejections.

Claims 13-19, 22, and 36 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by PCT Publication No. WO 00/24339 to Berreklouw in view of Patent No. US 6,458,140 B2 to Akin et al. (“Akin”), and further in view of Patent No. US 3,254,650 A to Collito. Claim 35 stands rejected under 35 U.S.C. § 103(a) as allegedly rendered obvious by Patent No. US 6,371,965 B2 to Gifford III et al. (“Gifford”) in view of Patent No. US 6,074,416 A to Berg et al. (“Berg”). Applicants respectfully traverse

2. Obviousness Rejections.

In order to establish a prima facie case of obviousness, the Office Action must fulfill three (3) basic criteria. MPEP 2142 and 2143. First, there must be some clear and explicit articulation of the reason(s) why the claimed invention would have been obvious, either in the references themselves or in the knowledge generally available to those of ordinary skill in the art, to modify the primary reference as proposed by the Office Action. Second, there must be a reasonable expectation of success. MPEP 2143.02. To satisfy this criterion, the Office Action must demonstrate that “one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded nothing more than predictable results to one of ordinary skill in the art.” MPEP 2143.02. Third, the cited references or in the knowledge generally available to those of ordinary skill in the art must disclose or suggest all of the claim limitations. MPEP 2142. Applicants maintain that the Office Action fails to establish a prima facie case for obviousness for at least the following reasons.

a. Independent Claim 13.

As noted above, the Office Action rejects claim 13 as allegedly rendered obvious by Berreklouw in view of Akin, and further in view of Collito. The Office Action acknowledges that Berreklouw fails to disclose “a first flange on a second end on the first coupler in alignment with a second flange on a second end on a second coupler wherein the method includes . . . crimping a clamping ring around the flanges to secure them to each other.” Office Action, Page 4, Lines 3-6. The Office Action contends that it would have been obvious to modify Berreklouw with the couplers depicted in **Figs. 9-11b** of Akin “to provide a longer flow channel between two vessels that are being joined by a side-by-side anastomosis,” but the Office Action acknowledges that Akin fails to disclose providing two flanges on the couplers and crimping a clamping ring around the flanges. Office Action, Page 4, Lines 8-9 and 15-17. Nevertheless, the Office Action proposes modifying the flow channel of Akin with the flanges 30, 32 and retainer ring 48 of Collito to achieve the invention set forth in claim 13. Applicants respectfully traverse.

i. Combination Changes Akin’s Principle of Operation.

A proposed combination of references cannot establish a prima facie case of obviousness when the proposed combination would change a reference’s principle of operation. MPEP 2143.01(VI). Akin states that “a fluid-tight flow channel is created when second channel portion 84 is inserted, in the direction of arrow 86, within the lumen of first channel portion 80. Akin; Col. 15, Lines 41-54.; **Fig. 10**. Accordingly, modifying Akin’s channel portions 80, 84 with the flanges 30, 32 of Collito adjacent to the second ends of each respective channel portion 80, 84 would prohibit the press-fit arrangement described in Akin. Thus, modifying Akin with Collito’s flanges would impermissibly change the principle of sealing arrangement between channels 80, 84 of Akin’s pieces 74, 76.

Moreover, modifying Akin with Collito's flanges 30, 32 does not achieve the step of "connecting said first coupler and said second coupler, thereby spacing a first flange of said first coupler from said first conduit and spacing a second flange of said second coupler from said second conduit," as set forth in claim 13. Akin depicts a collar 122 that does not join channel portions 98, 102 together, which are joined to form a fluid-tight seal in the same manner as channel portions 80, 84. Akin, Col. 16, Line 17-21. Instead, collar 122 has a thickness to engage the outer walls 126 of the interconnected vessels 116 to counter the force of segment 100 and secure the wall 116 between collar 122 and segment 100. Akin, Col. 16, Lines 35-43; **Fig. 11B**. Assuming arguendo that Akin could be modified with Collito, in such a modification, flanges 30, 32 of Collito would contact the respective conduits or vessels 126 depicted in Akin, and, thus, the modification would fail to achieve the claimed invention, as set forth in claim 13. Therefore, claim 13 is distinguishable over the cited art of record, at least for these reasons.

ii. Missing Element.

Further, claim 13, as amended, describes clamping each of the conduits to its respective saddle "positioned within the [] conduit, to conform [the] tissue clamp substantially to a shape of [the] saddle." (Emphasis added). In contrast, Berreklouw depicts outer flanges 114, 214, positioned outside of the adjacent conduits, which are clamped to the conduits by deforming a plurality of arms 111 separated by notches 113 to secure outer flanges 114, 214 to the respective vessels. Berreklouw, Page 21, Lines 5-18; **Fig. 14**. Therefore, claim 13, as amended, is distinguishable over the cited art of record, at least for this reason.

In view of the foregoing remarks with respect to claim 13, the Office Action fails to establish a prima facie case of obviousness. Therefore, Applicants respectfully request that the Examiner withdraw the obviousness rejection of independent claim 13, as amended.

b. Independent Claim 35.

The Office Action rejects independent claim 35 as allegedly rendered obvious by Gifford in view of Berg. The Office Action acknowledges that “Gifford fails to disclose the step of bending the tissue clamp away from the saddle and then releasing the clamp so that it conforms to the fixed saddle.” Office Action, Page 2, Lines 25-27. Nevertheless, the Office Action contends that it would have been obvious to employ attachment legs 415 of Gifford in the manner that Berg depicts employing wires 44 to engage tubing wall 66. Berg, Col. 4, Lines 14-26; **Figs. 10b-10c**. Applicants respectfully traverse.

Claim 35, as amended, describes “releasing said tissue clamp to move said tissue clamp to a clamped position substantially conforming to the shape of said fixed saddle.” Instead, Gifford depicts that staple legs 168 pierces target vessel wall 150, such that the sharpened tip 172 engages flange 167 of tubular body 164. Gifford, **Fig. 10**. Nevertheless, staple legs 168 do not conform substantially to the shape of flange 167 in the clamped position. Moreover, legs 168 must maintain a curved shape to provide an appropriate amount of radial tissue compression in the surrounding tissue of target vessel 150. Gifford, Col. 22, Lines 9-36. Berg does not even disclose a fixed saddle, but instead depicts wires 40, 44 that hold graft 30 to tubing wall 66. Berg, Col. 6, Lines 21-26; **Fig. 10c**. Thus, the references cited in the Office Action fail to disclose or suggest that the tissue clamp conforms substantially to the shape of a fixed saddle in the clamped position. Therefore, at least for this reason, Applicants respectfully request that the Examiner withdraw the obviousness rejection of independent claim 35, as amended.

c. Dependent Claims 14-19, 22, and 36.

Claims 14-19, 22, and 36 depend, either directly or indirectly, from independent claim 13, as amended. MPEP 2143.03 states that “[i]f an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious.” Therefore, at least for this reason, Applicants respectfully request that the Examiner withdraw the obviousness rejections of dependent claims 14-19, 22 and 36.

Conclusion:

Applicants maintain that the above-captioned patent application, as amended, is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution of this application may be furthered by discussing the application, in person or by telephone, with Applicants' representative, we would welcome the opportunity to do so.

Applicants believe that no fees are due as a result of the submission of this responsive amendment. Nevertheless, in the event of any variance between the fees determined by Applicants and the fees determined by the PTO, please charge or credit any such variance to the undersigned's **Deposit Account No. 02-0375**.

Respectfully submitted,
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